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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,952	07/08/2003	Robert H. Feldmeier	706.001PA	7114

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EXAMINER

SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,952

Applicant(s)

FELDMIEIER, ROBERT H.

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-8-2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5, and 11-12, drawn to a clean-in-place agitator arrangement, classified in class 366, subclass 13878.
 - II. Claims 6-10, drawn to a vertical shaft agitator, classified in class 366, subclass 325.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions the invention of group I provides a different effect of providing a cleaning arrangement, as seen in figure 3 and the other group II provides a different function of a vertical drive and a manner to retaining an impeller blade.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Bernhard Molldren on Jan 26, 2005 a provisional election was made WITH traverse to prosecute the invention of Group I, claims 1-5, 11-12. Affirmation of this election must be made by applicant in replying to

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this Office action. Claims 6-11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1, 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Angerhofer et al 6572261.

Angerhofer et al teaches an agitator with a cleaning feature including a drive shaft 36, a shaft housing 28, 60, forming a hollow annulus 46, and a means for admitting a cleaning solution 70, including a pair of seal lips at the end of 55 and 66 for sealing the ends of the shaft, whereby fluid may pass across the seal lip 55 to spray to clean the impeller, column 5, lines 41-58. With regards to claim 4, note that the device is angled from the wall 12, see figure 1.

Claim Rejections - 35 USC § 103

7. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Angerhofer et al 6572261 in view of Jay 4861044 (Jay cited on PTO 1449)

The Angerhofer (et al) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the seal lip projecting along the shaft.

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The Jay reference teaches that a shaft seal 32, 30 32 which is projected along the shaft so that it may provide a manner to produce the inner and outer lips to selectively seal or move open to flush in response to a cleaning fluid pressure from the inlet 40, and close upon the fluid pressure in the vat.

In view of the teaching of Jay that one may provide a seal along the shaft so that it may operate to open in response to a cleaning fluid and close and seal upon the fluid in the vat, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute for the seals of the Angerhofer reference with a seal having a projection along the shaft so as to provide a greater seal from the material in the vessel while providing a manner to flush cleaning fluid across the seal.

8. Claims 2, 3, 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angerhofer et al 6572261 in view of Woods et al 3388749

The Angerhofer reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of having the distal end of the drive shaft having a non-round portion and the agitator having a non-round portion so as to provide the holding of the agitator in place; and furthermore having a non-round shaft tip and 2nd non round portion proximal from the tip spaced from a round shaft portion.

The Woods reference teaches a manner to attach impeller blades to a shaft using a non round shaft portion 11 with non-round features tapered portions 13, 14, and further including a non-round tapered portions 21, 16, 12 for attaching each agitator

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blade, figure 3 having a corresponding non round feature 23, for fitting to a rounded 24, 28, 29, 25, 26 with a spaced round shaft 27 to act as a keyway, column 3, lines 14-31.

In view of the teaching of the Woods reference that one may use a keyway as a means to attach blade about a rotating shaft, it is deemed that it would have been obvious to one of ordinary skill in the art to without undue experimentation, to modify the attachment of the blades of the agitator of Angerhofer to the shaft of Angerhofer with a keyway and taper portions upon the cylindrical shaft so that the blades may be attached in a more positive manner.

Conclusion

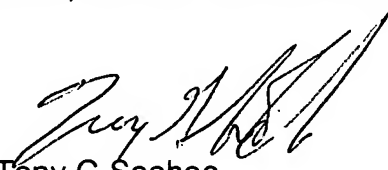
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyahara et al 5885000, Forslund 5700086, Jekat et al 5108715, Wennberg et al 4150921, Huff 2347195, Gambrill 5427450, Brunson et al 6193409, Brigham et al 4732396, Ritzie 4130287, Algers et al 5540449, Sjöholm et al 4136886, Scott et al 5171023, Borraccia et al 5152606, Thomas 4988303, Killough 5167449.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo
Primary Examiner
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